

Article - Insurance

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§15–1601.

- (a) In this subtitle the following words have the meanings indicated.
- (b) “Agent” means a pharmacy, a pharmacist, a mail order pharmacy, or a nonresident pharmacy acting on behalf or at the direction of a pharmacy benefits manager.
- (c) “Beneficiary” means an individual who receives prescription drug coverage or benefits from a purchaser.
- (d) (1) “Carrier” means the State Employee and Retiree Health and Welfare Benefits Program, an insurer, a nonprofit health service plan, or a health maintenance organization that:
 - (i) provides prescription drug coverage or benefits in the State; and
 - (ii) enters into an agreement with a pharmacy benefits manager for the provision of pharmacy benefits management services.
- (2) “Carrier” does not include a person that provides prescription drug coverage or benefits through plans subject to ERISA and does not provide prescription drug coverage or benefits through insurance, unless the person is a multiple employer welfare arrangement as defined in § 514(b)(6)(a)(ii) of ERISA.
- (e) “Compensation program” means a program, policy, or process through which sources and pricing information are used by a pharmacy benefits manager to determine the terms of payment as stated in a participating pharmacy contract.
- (f) “Contracted pharmacy” means a pharmacy that participates in the network of a pharmacy benefits manager through a contract with:
 - (1) the pharmacy benefits manager; or
 - (2) a pharmacy services administration organization or a group purchasing organization.
- (g) “ERISA” has the meaning stated in § 8–301 of this article.

(h) “Formulary” means a list of prescription drugs used by a purchaser.

(i) (1) “Manufacturer payments” means any compensation or remuneration a pharmacy benefits manager receives from or on behalf of a pharmaceutical manufacturer.

(2) “Manufacturer payments” includes:

(i) payments received in accordance with agreements with pharmaceutical manufacturers for formulary placement and, if applicable, drug utilization;

(ii) rebates, regardless of how categorized;

(iii) market share incentives;

(iv) commissions;

(v) fees under products and services agreements;

(vi) any fees received for the sale of utilization data to a pharmaceutical manufacturer; and

(vii) administrative or management fees.

(3) “Manufacturer payments” does not include purchase discounts based on invoiced purchase terms.

(j) “Nonprofit health maintenance organization” has the meaning stated in § 6–121(a) of this article.

(k) “Nonresident pharmacy” has the meaning stated in § 12–403 of the Health Occupations Article.

(l) “Participating pharmacy contract” means a contract filed with the Commissioner in accordance with § 15–1628(b) of this subtitle.

(m) “Pharmacist” has the meaning stated in § 12–101 of the Health Occupations Article.

(n) “Pharmacy” has the meaning stated in § 12–101 of the Health Occupations Article.

(o) “Pharmacy and therapeutics committee” means a committee established by a pharmacy benefits manager to:

- (1) objectively appraise and evaluate prescription drugs; and
- (2) make recommendations to a purchaser regarding the selection of drugs for the purchaser’s formulary.

(p) (1) “Pharmacy benefits management services” means:

(i) the procurement of prescription drugs at a negotiated rate for dispensation within the State to beneficiaries;

(ii) the administration or management of prescription drug coverage provided by a purchaser for beneficiaries; and

(iii) any of the following services provided with regard to the administration of prescription drug coverage:

1. mail service pharmacy;
2. claims processing, retail network management, and payment of claims to pharmacies for prescription drugs dispensed to beneficiaries;
3. clinical formulary development and management services;
4. rebate contracting and administration;
5. patient compliance, therapeutic intervention, and generic substitution programs; or
6. disease management programs.

(2) “Pharmacy benefits management services” does not include any service provided by a nonprofit health maintenance organization that operates as a group model, provided that the service:

(i) is provided solely to a member of the nonprofit health maintenance organization; and

(ii) is furnished through the internal pharmacy operations of the nonprofit health maintenance organization.

(q) “Pharmacy benefits manager” means a person that performs pharmacy benefits management services.

(r) “Proprietary information” means:

- (1) a trade secret;
- (2) confidential commercial information; or
- (3) confidential financial information.

(s) “Purchaser” means a person that offers a plan or program in the State, including the State Employee and Retiree Health and Welfare Benefits Program, that:

(1) provides prescription drug coverage or benefits in the State; and

(2) enters into an agreement with a pharmacy benefits manager for the provision of pharmacy benefits management services.

(t) “Rebate sharing contract” means a contract between a pharmacy benefits manager and a purchaser under which the pharmacy benefits manager agrees to share manufacturer payments with the purchaser.

(u) (1) “Therapeutic interchange” means any change from one prescription drug to another.

(2) “Therapeutic interchange” does not include:

- (i) a change initiated pursuant to a drug utilization review;
- (ii) a change initiated for patient safety reasons;
- (iii) a change required due to market unavailability of the currently prescribed drug;
- (iv) a change from a brand name drug to a generic drug in accordance with § 12–504 of the Health Occupations Article; or
- (v) a change required for coverage reasons because the originally prescribed drug is not covered by the beneficiary’s formulary or plan.

(v) “Therapeutic interchange solicitation” means any communication by a pharmacy benefits manager for the purpose of requesting a therapeutic interchange.

(w) “Trade secret” has the meaning stated in § 11–1201 of the Commercial Law Article.

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